
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

HARSHAD P. DESAI,

Plaintiff,

v.

GARFIELD SCHOOL DISTRICT, APRIL
LEFEVRE, CURTIS BARNEY, RALPH
PERKINS, JARED BREMS, and MYRON
COTTAM,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING PLAINTIFF’S
MOTION TO AMEND AND DENYING
AS MOOT PLAINTIFF’S MOTION FOR
EXTENSION OF TIME

Case No. 4:23-cv-00103-DN-PK

District Judge David Nuffer
Magistrate Judge Paul Kohler

This matter is before the Court on Plaintiff’s Motion to Amend and Motion for Extension of Time.¹ No response has been filed and the time to do so has expired.² For the reasons discussed below, the Court will grant the Motion to Amend and deny as moot the Motion for Extension of Time.

I. BACKGROUND

Plaintiff filed this action on November 1, 2023.³ Plaintiff’s Complaint alleges that Defendants have discriminated against him by not permitting him to apply for substitute teaching positions with the Garfield County School District (the “District”). Plaintiff named the District and a number of individuals as Defendants.

¹ Docket No. 19, filed February 21, 2024.

² DUCivR 7-1(a)(4)(D)(ii).

³ Docket No. 1.

On December 19, 2023, Defendants moved to dismiss, arguing that they had not been properly served. On February 7, 2024, the Court issued a Report and Recommendation, recommending the Motion to Dismiss be granted and that Plaintiff be permitted to properly serve all Defendants. On February 27, 2024, the Report and Recommendation was adopted, and Plaintiff was given an additional sixty (60) days to serve Defendants.

Prior to that Order, Plaintiff filed the instant Motion wherein he seeks to remove the individual Defendants and seeks additional time to serve the District.

II. DISCUSSION

Unless able to amend as a matter of course, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave.”⁴ “The court should freely give leave when justice so requires.”⁵ “In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be ‘freely given.’”⁶ Here, there is no evidence of undue delay, bad faith, dilatory motive, repeated failures to cure, undue prejudice, or futility. Therefore, leave will be given, and the individual Defendants can be removed from the Complaint. Plaintiff is directed to file his Amended Complaint within thirty (30) days of this Order.

⁴ Fed. R. Civ. P. 15(a)(2).

⁵ *Id.*

⁶ *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Plaintiff's Motion also requests additional time to serve the District. As stated, the Court previously ordered service be completed within sixty (60) days of the Court's February 27, 2024 Order, meaning Plaintiff has until April 29, 2024, to serve Defendants. In addition, it appears that Plaintiff has now served the District. Thus, Plaintiff's request for additional time has already been granted and his request here is moot.

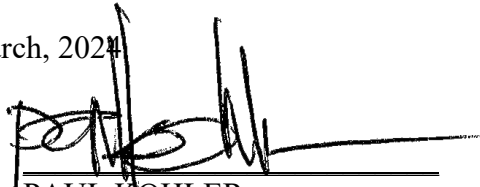
III. CONCLUSION

It is therefore

ORDERED that Plaintiff's Motion to Amend is GRANTED. It is further

ORDERED that Plaintiff's Motion for Extension of Time is DENIED AS MOOT.

SO ORDERED this 11th day of March, 2024.



PAUL KOHLER
United States Magistrate Judge